

**DELEGATION OF AUTHORITY
CLEAN WATER ACT (CWA)**

Class II Administrative Penalty: Agency Representation in the Hearings;
Initiating Internal Appeals of Adverse Determinations; and
Representing Agency in Appeals Under Section 309(g) and 311(b) of the Clean Water Act

1. AUTHORITY.

- a. To represent EPA in Class II civil penalty adjudications conducted under Section 309(g) and 311(b) of the Clean Water Act ("CWA");
- b. To initiate internal Agency appeals from orders, rulings or decisions under Section 309(g) and 311(b) of the CWA; and
- c. To represent the Agency in internal appeals from orders, rulings, or decisions entered in administrative proceedings under Section 309(g) and 311(b) of the CWA, whether or not initiated by the Agency, and in proceedings initiated by commentators under Section 309(g)(4)(C) of the CWA.

2. TO WHOM REDELEGATED.

- a. The authorities in 1.a. and 1.c. are redelegated through the Regional Counsel, Office of Regional Counsel, or equivalent, through the Branch Chiefs, Air, Toxics, and Information Law Branch, Land Law Branch, and Water Law Branch, or equivalents, to the staff attorneys.
- b. The authority in 1.b. is redelegated to the Regional Counsel, Office of Regional Counsel, or equivalent.

3. LIMITATIONS.

- a. The regional administrator or regional counsel and the General Counsel, or delegatee, shall consult with each other before exercising authority 1.b.
- b. The AA for OECA must notify the appropriate regional administrator or regional counsel before initiating an appeal.
- c. The regional administrator or regional counsel and the General Counsel, or delegatee, must obtain concurrence from the AA for OECA, or designee, before initiating an appeal.
- d. The regional administrator or regional counsel and the General Counsel, or delegatee, shall consult with the AA for OECA, or designee, any time they do not recommend an appeal of an adverse decision.

4. REDELEGATION AUTHORITY.

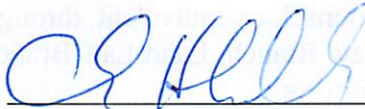
- a. The authorities in 1.a. and 1.c. may be redelegated to staff attorney level.
- b. The authority in 1.b. may not be redelegated.
- c. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

5. **SUPERSESSON.** This delegation supersedes R10 2-52-B (09/12/2003) and any other delegation of the same authority.

6. **ADDITIONAL REFERENCES.**

- a. Section 309(g) and 311(b) of CWA.
- b. 40 C.F.R. Part 22.
- c. OECA memo entitled "Revised Procedures to Strengthen Enforcement Program's Advocacy in Environmental Appeals Board Matters," dated August 7, 2000.
- d. OECA memo entitled "OECA/Regional Procedures for Civil Judicial and Administrative Enforcement Case Redelegation," dated November 8, 1994.
- e. OECA memo entitled "Delegated Water Cases and Criteria for Delegation," dated November 1, 1994.
- f. OECA memo entitled "Implementation of the July 14 Case Redelegations for Multimedia Cases," dated October 31, 1994.
- g. Office of Enforcement memo entitled "Redelegation of Authority and Guidance on Headquarters Involvement in Regulatory Enforcement Cases," dated July 11, 1994.
- h. EPA Delegations 1-37 and 1-38.
- i. EPA Delegation 2-52-B.

June 27, 2009
Date


Chris Hladick
Regional Administrator